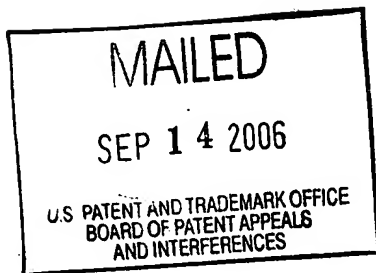


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte NATALIE ROSE NOEL
and DANE BUTZER

Application No. 10/090,889

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 10, 2006.. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed on May 4, 2006, stated under the Evidence Relied Upon section, page 2 that "No evidence is relied upon by the examiner in the rejection of

the claims under appeal.” A review of the file reveals that prior art was applied to the Rejections on appeal. See the Grounds of rejection on page 3 of the Examiner’s Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the examiner must submit a corrected examiner’s answer that will include the references under the “Evidence Relied Upon” heading.

Further, an Information Disclosure Statement (IDS) was filed October 18, 2002. It is not apparent from the record that the examiner considered the statements submitted nor notified applicants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly it is

ORDERED that the application is electronically returned to the Examiner to vacate the Examiner’s Answer and issue a revised Examiner’s Answer having the

Application No. 10/090,889

missing references listed under "Evidence Relied Upon" section, for consideration of the Information Disclosure Statement, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read "D.M. Shaw", is written over a horizontal line.

DALE M. SHAW
Deputy Chief Appeals Administrator
(571) 272-9797

GJH

cc: BUTZER & CHEN LAW, LLC
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